

ORTEGA WILTZ
Petitioner,

JAMES FORTNER, WARDEN
Respondent.


No. 3:09-0296
Judge Trauger

The Court has before it a *pro se* § 2254 prisoner petition (Docket Entry No. 1), for writ of habeas corpus, and the respondent's Motion to Dismiss (Docket Entry No. 10) the petition.

In accordance with the Memorandum contemporaneously entered, the Court finds merit in the respondent's Motion to Dismiss. Accordingly, respondent's motion is GRANTED and this action is hereby DISMISSED. Rule 8(a), Rules -- § 2254 Cases.

Should the petitioner file a timely notice of appeal from this order, such notice shall be treated as an application for a certificate of appealability, 28 U.S.C. § 2253(c), which will NOT issue because the petitioner has failed to make a substantial showing of the denial of a constitutional right.

It is so ORDERED.


Aleta A. Trauger
United States District Judge